

REMARKS

Claims 1-19 are pending in this application with claims 1, 11, 15, 16 and 19 being amended and new claim 20 being added by this response. Support for the amendments to the claims may be found throughout the specification and drawing figures, and more specifically at least in Figures 1 and 2 and their corresponding descriptions and page 15, lines 3- 9. Applicant respectfully submits that no new matter is added by these amendments.

Objection to Claims 11

Claim 11 is objected to due to certain informalities identified in the Office Action. Claim 11 is formally amended to correct the typographical error by replacing the word "0and" with the word "and". No new matter is added by this amendment and Applicant respectfully requests that this Objection be withdrawn.

Rejection of Claims 1-19 under 35 U.S.C. § 102(b)

Claims 1-19 are rejected under 35 U.S.C 102(b) as being anticipated by Surwit et al. (U.S. Patent No. 6,024,699).

Amended claim 1 is a system for providing a user with preventive care health maintenance information during a user's lifetime. The system includes a stored medical record of a particular user and a repository of health maintenance guidelines including data representing a plurality of actions supporting preventative care health maintenance and associated time information customized for the particular user based on characteristics including, age, sex and health condition for use in coordinating the health maintenance guidelines and patient medical record information. A processor automatically and without user intervention employs said guidelines and associated time information and retrieved medical record information of the particular user to determine at least one action to be performed by the particular user and initiate generation of a message at a particular time. The message includes at least one action supporting preventative care health maintenance derived from the retrieved medical record and prompting the particular user to initiate the at least one action in support of preventive care health maintenance of the particular user. A communication processor processes the message for output communication to the particular user. For the reasons presented below, Applicant respectfully submits that Surwit fails to disclose or suggest each feature of amended claim 1.

Unlike the claimed system, Surwit describes using remote patient monitoring devices enabling patients to connect to a centralized server to transmit and receive information

therefrom (see Abstract). Surwit requires direct input from a patient, via the portable patient monitor and uses information transmitted therefrom for diagnostic purposes (col. 7, line 1 – col. 9, line 22). However, and also unlike the claimed system, the information transmitted from the portable patient monitor is viewable and acted upon by a case manager who diagnoses and poses treatment options that are delivered to the portable patient monitors (col. 9, line 50-57). Thus, Surwit discloses a system for monitoring remotely located patients and directing patient treatment via network connections. This is fundamentally different from the claimed system. Contrary to Surwit, the claimed system “advantageously provides a lifelong electronic health tool and guide for a person to encourage proactive and preventative” actions be taken by the patient to promote healthy living by the patient in view of their specific and identified medical conditions and other characteristics (Application, page 5, lines 13 – 16). The claimed arrangement provides for customized health guidelines that are automatically presented in a message format to the patient. Surwit fails to disclose or suggest an equivalent feature.

The Rejection asserts that Surwit, in column 6, lines 28-66 and Figure 8, discloses the claimed “repository of health maintenance guidelines...customized for said particular user based on characteristics including age, sex and health condition”. Applicant respectfully disagrees. Rather, the cited section of Surwit merely describes an overview of a system whereby portable patient monitors are connected via a network to a central physician access server enabling transmission of monitored patient data to the central server (col. 6, line 32-36). Additionally, case manager clients are connected via a network and enables case managers to access data stored on the central servers for determining a course of action (col. 6, line 36 – 39). The only mention of any type of guideline is an exemplary definition of a patient prescription that may be changed by a case manager in response to data collected from a patient portable monitor (col. 6, lines 59- 67). There is nothing in the cited sections or elsewhere that discloses or suggests “a repository of health maintenance guidelines including data representing a plurality of actions supporting preventative care health maintenance and associated time information **customized for said particular user based on characteristics including, age, sex and health condition**” as in the claimed system. Surwit merely provides a central server that stores data acquired from a patient via the portable patient monitor that enable a case worker to modify a treatment plan for the particular patient using prestored prescription guidelines. This is NOT equivalent to a repository including “a plurality of actions supporting preventative care health maintenance” that is customized “based on characteristics including age, sex and health condition”.

Additionally, the Rejection relies on column 7, lines 15 – 60 in support of the assertion that Surwit anticipates the claimed “processor”. Applicant respectfully disagrees.

The section relied on in the Rejection describes the portable patient monitoring unit that is used by a patient located remotely from the central server in order to obtain patient data that is stored on the central server and acted upon by a case manager. Nowhere does Surwit provide enabling disclosure of the claimed "processor for automatically and without user intervention employing said guidelines and associated time information and retrieved medical record information of said particular user to determine at least one action to be performed by said particular user and initiate generation of a message at a particular time, said message including said at least one action supporting preventative care health maintenance derived from said retrieved medical record and prompting said particular user to initiate said at least one action in support of preventive care health maintenance of said particular user". Unlike the claimed system, the portable patient monitor of Surwit merely allows for patients to record patient data, transmit that data to a central server and receive additional information from the central server about the data that was transmitted. No action is automatically performed by the portable patient monitor and certainly, there is nothing that discloses or suggests employing customized "guidelines and associated time information and retrieved medical record information of said particular patient to determine an at least one action to be performed by said particular patient" that promotes preventative healthcare for the particular patient. Moreover, the portable patient monitor only generates messages based on pre-loaded instructions in response to data acquired by the monitor.

The portable patient monitor of Surwit DOES NOT employ customized preventative healthcare guidelines with information from a "retrieved medical record" to determine actions to be taken and generate messages including those actions. The portable patient monitor in Surwit does not interact with or process information based on a patient medical record that includes for example, patient medical history including health conditions. Instead, and unlike the claimed arrangement, the portable patient monitor of Surwit facilitates remote patient monitoring and communication with case managers via a centralized server. This is fundamentally different from the claimed arrangement which automatically and without user intervention employs "said guidelines and associated time information and retrieved medical record information of said particular user to determine at least one action to be performed by said particular user and initiate generation of a message at a particular time, said message including said at least one action supporting preventative care health maintenance derived from said retrieved medical record and prompting said particular user to initiate said at least one action in support of preventive care health maintenance of said particular user".

Furthermore, Surwit fails to disclose or suggest generating a "message including said at least one action supporting preventative care health maintenance **derived from said retrieved medical record** and prompting said particular user to initiate said at least one

action in support of preventive care health maintenance of said particular user" as in the claimed arrangement. Instead, Surwit merely acquires patient data at the time of interaction with the patient to transmit data for use by a case manager in modifying a treatment plan. Surwit fails to disclose or suggest automatically deriving any information from a retrieved patient record to automatically determine preventative healthcare actions to be taken by the particular patient. Active monitoring and response thereto, as in Surwit, is fundamentally different from automatically and without user intervention determining actions to be taken by a patient using care guidelines customized based on "age, sex and health condition" of that patient. Therefore, as each feature of amended claim 1 is neither disclosed nor suggested, Applicant respectfully submits that Surwit does not anticipate claim 1. Consequently, withdrawal of the rejection of claim 1 is respectfully requested.

Claim 2 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 2 is further considered patentable because Surwit neither discloses nor suggests "said message prompts a healthcare provider to initiate action in support of preventive care health maintenance of said particular user, and said communication processor processes said message for output communication to said healthcare provider" as in the claimed arrangement. As discussed above with respect to claim 1, Surwit fails to disclose or suggest using customized care guidelines and retrieved patient medical records to determine preventative actions to be taken by the patient which are "derived from said retrieved medical records" of the patient. Moreover, the section of Surwit entitled "Physician Access Center Server" in column 9, fails to provide enabling disclosure of an equivalent feature. Unlike the claimed arrangement, the central server in Surwit analyzes data obtained from the portable patient monitor and NOT a "retrieved medical record". Additionally, the data from the monitoring unit is analyzed to determine if an emergency exists and prioritizes stored data for response by case managers. This prioritization of data used by case managers in determining a response order is NOT equivalent to the claimed "message [that] prompts a healthcare provider to initiate action in support of preventive care health maintenance of said particular user" as in the claimed arrangement. Surwit acts upon fundamentally different and unrelated data (patient monitoring data from a monitoring device) to produce a fundamentally different result (a prioritized list of patients needing evaluation). Therefore, it is respectfully submitted that claim 2 is also not anticipated by Surwit.

Claim 3 is dependent on claims 1 and 2 and is considered patentable for the reasons presented above with respect to claims 1 and 2. Claim 3 is also considered patentable because Surwit fails to disclose or suggest that the "message prompts a healthcare provider to at least one of, (a) schedule an appointment for a healthcare related visit, (b) initiate preparation of a renewed prescription, and (c) obtain a financial record associated with a healthcare" as in the

claimed system. The Rejection relies on Figure 13 in support of the assertion that the claimed feature is anticipated. Applicant respectfully disagrees. Rather, Figure 13 provides an exemplary user interface used by a case manager to initiate communication with a patient via the central server and using the portable patient monitoring device. This is in direct contrast to the claimed system which “automatically and without user intervention” generates messages derived from customized care guidelines and a retrieved patient medical record which prompts the healthcare provider to take actions in the preventative healthcare of a particular patient. Therefore, the user interface of Figure 13 and described in column 20, lines 48 – 63, is operated by a case manager and is not an automatically generated message that “prompts a healthcare provider to at least one of, (a) schedule an appointment for a healthcare related visit, (b) initiate preparation of a renewed prescription, and (c) obtain a financial record associated with a healthcare”. Consequently, withdrawal of the rejection of claim 3 is respectfully requested.

Claims 4 - 7 are dependent on claim 1 and are considered patentable for the reasons presented above with respect to claim 1. Consequently, withdrawal of the rejection of claims 4 – 7 is respectfully requested.

Claim 8 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 8 is also considered patentable because Surwit fails to disclose or suggest “said repository of health maintenance guidelines is customized for said particular user based on at least one module determining guidelines associated with one or more of, (a) a specific disease, (b) a specific medical condition, (c) a particular anatomical part, and (d) a particular anatomical function” as in the claimed arrangement. As discussed above, Surwit neither discloses nor suggests a customized set of guidelines stored in a repository that are used in providing at least one action to be taken by a patient in support of preventative healthcare for that particular patient. Moreover, the section relied on by the Rejection (col. 18 and col. 6, lines 49-55) fail to provide enabling disclosure of the claimed feature. Specifically, the two sections cited by the Rejection are associated with fundamentally different aspects of the Surwit system. Specifically, the “Communicating Treatment Information to Patients” aspect of Surwit enables case managers to review data collected from a portable patient monitoring device and modify patient treatment based on the collected data. The case manager modified treatment options are then communicated back to the patient via the portable monitoring device via the central access server. This is fundamentally different from the claimed arrangement which utilizes customized health maintenance guidelines “based on at least one module determining guidelines associated with one or more of, (a) a specific disease, (b) a specific medical condition, (c) a particular anatomical part, and (d) a particular anatomical function”. The claimed arrangement

automatically and without user intervention determines actions to be taken using these customized guidelines and generates messages for communication to patients that identify actions to be taken. Unlike the claimed arrangement, Surwit fails to disclose or suggest the use of a module that determines how care guidelines are customized which are useable by the claimed arrangement to determine and communicate preventative treatment actions to patients. Consequently, withdrawal of the rejection of claim 8 is respectfully requested.

Claims 9 – 12 are dependent on claim 1 and considered patentable for the reasons presented above with respect to claim 1. Consequently, withdrawal of the rejection of claims 9 – 12 is respectfully requested.

Claim 13 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 13 is further considered patentable because Surwit neither discloses nor suggests “an adaptation processor for modifying said guidelines in response to at least one of, (a) a received message identifying an update to preventive care medical information used in said guidelines, and (b) user editing of said guidelines” as in the claimed arrangement. The Rejection relies on column 11, lines 36-48 of Surwit in support of the assertion that Surwit anticipates the claimed feature. Applicant respectfully disagrees. Contrary to the assertion in the Rejection, the cited section of Surwit merely describes various security measures controlling access to the various aspects of the system. There is nothing in the cited section (or elsewhere) that would allow one skilled in the art to conclude that the present claimed feature is anticipated. The adaptation processor enables the system to modify the customized guidelines for use in determining and communicating preventative health care actions to be taken by a user. Controlling access to system resources as described in the cited section of Surwit is NOT equivalent to the claimed feature. Consequently, withdrawal of the rejection of claim 13 is respectfully requested.

Claim 14 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Consequently, withdrawal of the rejection of claim 14 is respectfully requested.

Amended independent claim 15 is considered patentable for the reasons presented above with respect to claim 1. Consequently, withdrawal of the rejection of claim 15 is respectfully requested.

Amended independent claim 16 is considered patentable for the reasons presented above with respect to claim 1. Claim 16 is further considered patentable because Surwit fails to disclose or suggest using “a stored medical record of a particular user derived from at least

one previous encounter with a healthcare professional and including patient medical history data" in conjunction with a set of health guidelines customized for a particular patient to determine "at least one action to be performed by said particular user" that supports preventative healthcare. Unlike the claimed invention, Surwit requires input from a patient via a portable patient monitoring device and all recommendations are based on that input. There is no proactive communication of preventative healthcare guidelines to be implemented by the patient using a customized set of healthcare guidelines tailored to the patient in conjunction with "a stored medical record of a particular user derived from at least one previous encounter with a healthcare professional and including patient medical history data". No such feature is disclosed or suggested by Surwit. Consequently, withdrawal of the rejection of claim 16 is respectfully requested.

Claim 17 is dependent on claim 16 and is considered patentable for the reasons presented above with respect to claims 1 and 16. Consequently, withdrawal of the rejection of claim 17 is respectfully requested.

Amended independent claim 18 is considered patentable for the reasons presented above with respect to claim 1. Consequently, withdrawal of the rejection of claim 18 is respectfully requested.

Amended independent claim 19 is considered patentable for the reasons presented above with respect to claims 1 and 16. Consequently, withdrawal of the rejection of claim 19 is respectfully requested.

In view of the above remarks and amendments to the claims, it is respectfully submitted that Surwit fails to disclose or suggest each feature of the claimed arrangement. Therefore, withdrawal of the rejection under 35 USC 102(b) is respectfully requested.

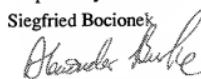
New Claim

New claim 20 is added by this response and recites that the "at least one action to be taken by said particular user in supporting preventative care health maintenance is at least one of (a) an action supporting prevention of the manifestation of a disease, (b) an action supporting avoidance of disease specific complications, (c) an action supporting early recognition of disease specific complications, (d) an action supporting early treatment of disease specific complications, and (e) an action supporting avoiding recurrences of disease specific complications." There is nothing in Surwit that discloses or suggests this claimed feature. Consequently, Applicant respectfully submits that the patentability of claim 20 is not disturbed by Surwit.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,

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